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BEFORE THE  
PUBLIC SERVICE COMMISSION  
OF SOUTH CAROLINA

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SC PUBLIC SERVICE  
COMMISSION

DOCKET NO. 2000-366-A

In re:

Application of Chem-Nuclear Systems, LLC )  
For Adjustment in the Levels of Allowable )  
Costs and for Identification of )  
Allowable Costs )  
\_\_\_\_\_ )

MEMORANDUM OF  
ATLANTIC COMPACT COMMISSION  
IN SUPPORT OF PETITION FOR RECONSIDERATION OF  
ORDER NO. 2004-349 FILED BY THE  
SC BUDGET AND CONTROL BOARD

Pursuant to S.C. Code Section 48-46-40(B)(10) and 26 S.C. Regs. 103-881, the Atlantic Compact Commission ("ACC") as a statutory party to the proceeding joins in the Petition for Reconsideration or Correction of Clerical Error filed by the South Carolina Budget and Control Board ("B&C Board"). ACC submits this memorandum in support of the B&C Board's petition and requests that the Public Service Commission of South Carolina ("Commission") reconsider Order No. 2004-349. ACC would show the following:

1. The Commission issued Order No. 2004-349 in this docket in which it entered a finding and conclusion which differed from the Commission's decision concerning inclusion of certain costs related to a "skid" used to transport and bury the Maine Yankee Reactor Pressure Vessel.

2. The ACC submits that the findings and conclusions in Order No. 2004-349 in regard to the skid are clearly erroneous in light of the reliable, probative and substantial evidence on the whole record.

3. Order No. 2004-349 does not accurately describe the decision of the Commission. In the Commission Directive of June 2, 2004 the Commission's ruling on the treatment of costs of the skid was described as follows:

With regard to the skid, the Commission finds that there is insufficient evidence in the record to support a 50-50 split of the \$382,495 cost of the skid. The record does not allow the Commission to determine what portion of the total cost of the skid is to be allocated to Chem Nuclear Systems. Lacking this supporting evidence, the Commission has no choice but to deny its inclusion as a cost.

("Directive").

4. Certain provisions of Order No. 2004-349 do not reflect the decision made by the Commission as indicated in the Directive. Specifically, Findings and Conclusions 3, pages 17-18, regarding the skid do not accurately set out the Commission's decision. With respect to the skid there were three positions: (1) Chem-Nuclear sought to recover \$191,247 as an allowable cost for the skid; (2) the Staff proposed an adjustment to the proposal of Chem-Nuclear which reduced the cost by \$26,354 resulting in an allowable cost of \$164,894; and (3) the B&C Board argued that Chem-Nuclear failed to present evidence that any costs related to the skid should be allowed. In its decision the Commission agreed with the B&C Board's position that no costs should be allowed for the skid.

5. This provision in the order states that the Commission approved the Staff's adjustment to reduce by \$26,354 the amount of allowable costs related to the skid. This provision contradicts the Commission's decision as shown in the Directive.

The Directive is the best evidence of the Commission's decision and the Directive indicated that there was no supporting evidence to determine what portion of the total cost of the skid was to be allowed. The Commission correctly concluded that Chem-Nuclear had failed to meet its burden with respect to recovery of the costs of the skid.

6. Failure of the Commission to correct Order No. 2004-349 would result in a violation of the S.C. Administrative Procedures Act, which requires that the final decision in contested case be based on the record before the agency. S.C. Code § 1-23-350.

The Atlantic Compact Commission respectfully requests that the Commission issue an order:

- A. correcting Order No. 2004-349 so that it conforms with the Commission's decision which denied inclusion of the cost of the skid; and
- B. granting such other relief as is just and proper.

Dated this 18<sup>th</sup> day of August, 2004.

ROBINSON, MCFADDEN & MOORE, P.C.



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**BEFORE  
THE PUBLIC SERVICE COMMISSION  
OF SOUTH CAROLINA**

**DOCKET NO. 2000-366-A**

In Re:

Application of Chem-Nuclear  
Systems, LLC For Adjustment in  
the Levels of Allowable Costs and  
for Identification of Allowable Costs

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**CERTIFICATE OF SERVICE**

This is to certify that I, Harvey Cleveland, an employee with the law firm of Robinson, McFadden & Moore, P.C., have this day caused to be served upon the person(s) named below the **Memorandum of Atlantic Compact Commission in Support of Petition for Reconsideration filed by the South Carolina Budget & Control Board** in the foregoing matter by hand delivery:

Robert T. Bockman, Esquire  
McNair Law Firm  
1301 Gervais Street  
Columbia, SC 29211

Dated at Columbia, South Carolina this 8-18 day of August 04.

  
\_\_\_\_\_  
Harvey Cleveland

BEFORE  
THE PUBLIC SERVICE COMMISSION  
OF SOUTH CAROLINA

DOCKET NO. 2000-366-A

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SC PUBLIC SERVICE  
COMMISSION

In Re:

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the Levels of Allowable Costs and  
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CERTIFICATE OF SERVICE

This is to certify that I, Angela Wedekind, an employee with the law firm of Robinson, McFadden & Moore, P.C., have this day caused to be served upon the person(s) named below the **Memorandum of Atlantic Compact Commission in Support of Petition for Reconsideration filed by the South Carolina Budget & Control Board** in the foregoing matter by placing a copy of same in the United States Mail, postage prepaid, in an envelope addressed as follows:

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The Hon. Henry D. McMaster  
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Catherine D. Taylor, Esquire  
SCANA Services, Inc.  
Legal Department 130  
Columbia, South Carolina 29218

The Hon. C. Earl Hunter, Commissioner  
S.C. Dept. of Health and Environmental Control  
2600 Bull Street  
Columbia, South Carolina 29201

Dated at Columbia, South Carolina this 18<sup>th</sup> day of August 04.

Angela B. Wedekind  
Angela B. Wedekind